

**ASSEMBLY BILL**

**No. 1219**

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**Introduced by Assembly Member Morrell**

February 22, 2013

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An act to amend Section 11346.3 of the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1219, as introduced, Morrell. Administrative Procedure Act: adverse economic impact.

Existing law, the Administrative Procedure Act, governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Existing law requires the agency to assess the potential for adverse economic impact on California business enterprises and individuals, as specified.

This bill would make technical, nonsubstantive changes to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 11346.3 of the Government Code is
- 2     amended to read:
- 3     11346.3. (a) State agencies proposing to adopt, amend, or
- 4     repeal any administrative regulation shall assess the potential for
- 5     adverse economic impact on California business enterprises and
- 6     individuals, avoiding the imposition of unnecessary or unreasonable

1 regulations or reporting, recordkeeping, or compliance  
2 requirements. For purposes of this subdivision, assessing the  
3 potential for adverse economic impact ~~shall require~~ *requires*  
4 agencies, when proposing to adopt, amend, or repeal a regulation,  
5 to adhere to the following requirements, to the extent ~~that~~ these  
6 requirements do not conflict with other state or federal laws:

7 (1) The proposed adoption, amendment, or repeal of a regulation  
8 shall be based on adequate information concerning the need for,  
9 and consequences of, proposed governmental action.

10 (2) The state agency, prior to submitting a proposal to adopt,  
11 amend, or repeal a regulation to the office, shall consider the  
12 proposal's impact on business, with consideration of industries  
13 affected including the ability of California businesses to compete  
14 with businesses in other states. For purposes of evaluating the  
15 impact on the ability of California businesses to compete with  
16 businesses in other states, an agency shall consider, but not be  
17 limited to, information supplied by interested parties.

18 (3) An economic assessment prepared pursuant to this  
19 subdivision for a proposed regulation that is not a major regulation  
20 or that is a major regulation proposed prior to November 1, 2013,  
21 shall be prepared in accordance with subdivision (b). An economic  
22 assessment prepared pursuant to this subdivision for a major  
23 regulation proposed on or after November 1, 2013, shall be  
24 prepared in accordance with subdivision (c), and shall be included  
25 in the initial statement of reasons as required by Section 11346.2.

26 (b) (1) All state agencies proposing to adopt, amend, or repeal  
27 a regulation that is not a major regulation or that is a major  
28 regulation proposed prior to November 1, 2013, shall prepare an  
29 economic impact assessment that assesses whether and to what  
30 extent it will affect the following:

31 (A) The creation or elimination of jobs within the state.

32 (B) The creation of new businesses or the elimination of existing  
33 businesses within the state.

34 (C) The expansion of businesses currently doing business within  
35 the state.

36 (D) The benefits of the regulation to the health and welfare of  
37 California residents, worker safety, and the state's environment.

38 (2) This subdivision does not apply to the University of  
39 California, the Hastings College of the Law, or the Fair Political  
40 Practices Commission.

1 (3) Information required from state agencies for the purpose of  
2 completing the assessment may come from existing state  
3 publications.

4 (c) (1) Each state agency proposing to adopt, amend, or repeal  
5 a major regulation on or after November 1, 2013, shall prepare a  
6 standardized regulatory impact analysis in the manner prescribed  
7 by the Department of Finance pursuant to Section 11346.36. The  
8 standardized regulatory impact analysis shall address all of the  
9 following:

10 (A) The creation or elimination of jobs within the state.

11 (B) The creation of new businesses or the elimination of existing  
12 businesses within the state.

13 (C) The competitive advantages or disadvantages for businesses  
14 currently doing business within the state.

15 (D) The increase or decrease of investment in the state.

16 (E) The incentives for innovation in products, materials, or  
17 processes.

18 (F) The benefits of the regulations, including, but not limited  
19 to, benefits to the health, safety, and welfare of California residents,  
20 worker safety, and the state's environment and quality of life,  
21 among any other benefits identified by the agency.

22 (2) This subdivision shall not apply to the University of  
23 California, the Hastings College of the Law, or the Fair Political  
24 Practices Commission.

25 (3) Information required from state agencies for the purpose of  
26 completing the analysis may be derived from existing state, federal,  
27 or academic publications.

28 (d) Any administrative regulation adopted on or after January  
29 1, 1993, that requires a report shall not apply to businesses, unless  
30 the state agency adopting the regulation makes a finding that it is  
31 necessary for the health, safety, or welfare of the people of the  
32 state that the regulation apply to businesses.

33 (e) Analyses conducted pursuant to this section are intended to  
34 provide agencies and the public with tools to determine whether  
35 the regulatory proposal is an efficient and effective means of  
36 implementing the policy decisions enacted ~~in~~ by statute or by other  
37 provisions of law in the least burdensome manner. Regulatory  
38 impact analyses shall inform the agencies and the public of the  
39 economic consequences of regulatory choices, not reassess  
40 statutory policy. The baseline for the regulatory analysis shall be

1 the most cost-effective set of regulatory measures that are equally  
2 effective in achieving the purpose of the regulation in a manner  
3 that ensures full compliance with the authorizing statute or other  
4 law being implemented or made specific by the proposed  
5 regulation.

6 (f) Each state agency proposing to adopt, amend, or repeal a  
7 major regulation on or after November 1, 2013, and that has  
8 prepared a standardized regulatory impact analysis pursuant to  
9 subdivision (c), shall submit that analysis to the Department of  
10 Finance upon completion. The department shall comment, within  
11 30 days of receiving that analysis, on the extent to which the  
12 analysis adheres to the regulations adopted pursuant to Section  
13 11346.36. Upon receiving the comments from the department, the  
14 agency may update its analysis to reflect any comments received  
15 from the department and shall summarize the comments and the  
16 response of the agency along with a statement of the results of the  
17 updated analysis for the statement required by paragraph (10) of  
18 subdivision (a) of Section 11346.5.